

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 4:17-CR-5-FL-1

UNITED STATES OF AMERICA

v.

SANJAY KUMAR,

Defendant.

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ORDER

This matter comes before the court on the government's motion in limine (DE 219). No response has been filed by defendant and the time to do so has elapsed. For the reasons set forth below, the court denies the government's motion without prejudice to its renewal within 21 days of the issuance of this order.

Previously trial was set in this case for October 1, 2018. On September 14, 2018, defendant attempted to provide notice of eight proposed expert witnesses, James Hilkey ("Hilkey"), Wilkie Andrew Wilson, Jr., Benjamin Wall, Raymond J. Bradley, Jr. ("Bradley"), Robert Dennis Bridgers ("Bridgers"), Michael K. Nunn ("Nunn"), Alan Russakov ("Russakov"), and Scott Kirby. (DE 216). The government filed the instant motion in limine on September 16, 2018, seeking to exclude expert testimony of all of the listed witnesses except the first, Hilkey, for failure to provide proper notice under Fed. R. Evid. 702 and Fed. R. Crim. P. 16(b)(1)(C); and as excludable under Fed. R. Evid. 702 and 403. (DE 219).


Defendant filed no response but on September 17, 2018, defendant filed motion for extension of time to supplement expert notices, which the court granted on September 19, 2018, in which defendant 1) informed the court that regarding Bradley, Bridgers, Nunn, and Russakov, defendant

provided to the government recorded interviews of those witnesses which provide the testimony expected, 2) noted that efforts at supplementation and working with witnesses have been delayed by Hurricane Florence which made landfall on the coast of North Carolina on September 14, 2018, and 3) indicated that further information concerning these witnesses was forthcoming. (DE 221 at 1). Also on September 19, 2018, the court granted the parties' joint motion to continue trial due to hurricane effects which trial is now set for July 8, 2019.

On October 29, 2018, the court entered text order stating as follows: "This matter comes before the court on its own initiative. The court previously granted defendant's motion for additional time to file supplementation of its expert notices. The court directs defendant to so file not later than November 13, 2018." No supplementation was filed.

The court anticipates that many of the issues regarding defendant's expert witnesses may have been resolved in the intervening period since the government filed its instant motion. Accordingly, the court denies defendant's motion without prejudice to its renewal within 21 days of the issuance of this order to enable the court, if needed, to consider a more narrowly-tailored motion raising up for decision any remaining issues concerning defendant's expert witnesses.

SO ORDERED, this the 28th day of January, 2019.



LOUISE W. FLANAGAN
United States District Judge